Institute of Incorporated Public Accountants

Advanced Taxation

Module 9

May 2014

Solutions

Instructions to Candidates:

1. **Answer any 5 out of 6 questions**
2. **All questions carry equal marks (20 marks each)**
3. **Include all workings with your answer**

- **Time Allowed: 3 Hours**

Solution 1

Taxable gains

Goodwill €250,000 and premises €150,000, total €400,000

Value of shares

Assets taken over €874,000

Liabilities taken over €26,000

Cash given €20,000

Value of shares = €874,000-€26,000-€20,000 = €828,000 **3 marks**

Deferred gains

828,000/874,000 x 400,000 = 378,947

Taxable gain €400,000 - €378,947 =	21,053	**3 marks**
Less: annual exemption	1,270	**1 mark**
	19,783	
Cgt €19,783 x 33% = €6,528		**5 marks**

b) €828,000 – 378,947 = €449,053 **3 marks**

c) Stamp duty 2% x €874,000 = €17,480 **2 marks**

Could pass inventory and trade receivables by delivery and just pay stamp duty on goodwill and premises (€800,000 x 2% = €16,000).

3 marks

Solution 2

Mary – exempt, dwelling house relief	**5 marks**
Charity – exempt	**3 marks**
Farm exempt as agricultural relief and then under threshold	**5 marks**
Sally – exempt as spouse	**2 marks**
James – exempt	**5 marks**

Solution 3

Colours Limited can sell Red Limited with no capital gains tax or corporation tax implications on the sale as they are entitled to claim participation exemption under Section 626b TCA 1997. Colours Limited own more than 5% of Red Limited,a trading company in Ireland.

10 marks

As Red Limited is leaving the group within 10 years of acquiring a premises from another group member, the capital gains tax Black avoided on the transfer to Red will become payable now. This amounts to

Sales Proceeds	1,200,000
Less:	
Cost	
250,000 x 1.212	<u>(303,000)</u>
Gain	897,000

€897,000 x 20%/12.5% = 1,435,200 x 12.5% = €179,400 **10 marks**

Solution 4

a)

Company share buy back

Will be treated as for the benefit of the trade so liable to cgt and not it.

Sales proceeds	500,000	
Cost	(100)	
Gain	499,900	**2 marks**
Less: Annual exemption	(1,270)	**2 marks**
Taxable gain	498,630	**3 marks**
€498,630 x 33% =	€164,548	**3 marks**

b)

Company treated as selling house so liable to corporation tax. **3 marks**

Billy treated as receiving a distribution of undervalue €100,000 from company so liable to income tax Schedule F and company must pay dividend withholding tax 20% and pay to Revenue within 14 days of end of month. **3 marks**

Base cost of shares of brothers reduced by undervalue. **3 marks**

Not a good idea. **1 mark**

Solution 5

a)

Sole trader – 55% rate of tax, main advantage is losses in business can initially be used against other income. May save some at 41%. **1 mark**

Limited company – tax rate 12.5%. **2 marks**

Losses stick in company **1 mark**

Research and development credit could be claimed, this will save tax 37.5%. (explain conditions) **2 marks**

Seed capital relief and EIIS **2 marks**

Set up as company **2 marks**

b)

Seed capital relief – invest up to €600,000 and get refund 41% = 246,000. Borrow €500,000 from bank (will they lend though?) and repay €246,000 when tax refund and then just owe €254,000. **5 marks**

Employment investment incentive scheme – Tom can't invest as he will own greater than 30% of the share and share and loan capital combined are in excess of €850,000. Mary could as she is not connected with company once she owns less than 30% and she could save some tax at 41% and some at 20% based on her income. **5 marks**

Solution 6

a) VAT Charge on which input credit is not allowed

No deduction is allowed for VAT on any of the following:

- Provision of food, drink or accommodation supplied to a taxable person, his agents or employees.
- Entertainment expenses
- Purchase or hiring of passenger motor vehicles other than as stock in trade
- Purchase of petrol other than as stock in trade, can however reclaim diesel
- VAT in respect of goods or services used by the taxable persons for the purposes of an exempt activity or for personal use
- VAT for goods and services for which the registered trader does not have a valid VAT invoice.

Need 5 for all points

b) Who must register for VAT?

You must register for VAT if you are a taxable person and your annual turnover (i.e. the amount of your receipts excluding VAT) exceeds or is likely to exceed the following annual limits.
€75,000 in respect of the supply of goods
€37,500 in respect of the supply of services

You may also be obliged to register for VAT if you receive taxable services from abroad or if you are a foreign trader doing business in the State.

Need all for 5 points

c) Cash receipts basis of accounting

Can use if:

- Persons engaged in the supply of taxable goods or services where at least 90% of sales are to unregistered persons
- Persons whose annual turnover is less than €1,250,000

Means you pay VAT to Revenue when you are paid for goods / services.

Need all for all 5 points

d) Requirements for valid VAT invoice / credit note

A Valid VAT invoice / credit note must contain the following:

- Name and address of person issuing the invoice
- The sellers VAT registration number
- Date of issue of invoice
- Date of supply of goods / services
- Full description of goods / services
- Amount charged excluding VAT
- Rate (including zero rate) and amount of VAT at each rate
- Name and address of customer.

Need 5 for all 5 points.

A VAT Invoice must be provided where the business is transacted with another taxable person. VAT invoice must be issued by 15th day of month following the month in which the goods / services are supplied or advance payment received.

All records must be maintained for 6 years.